

Oversight Board Training

December 5, 2012



TRAINING OVERVIEW

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Finding of Completion	
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Q & A	

Fiduciary Responsibility

Oversight boards shall have fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues . . . ”

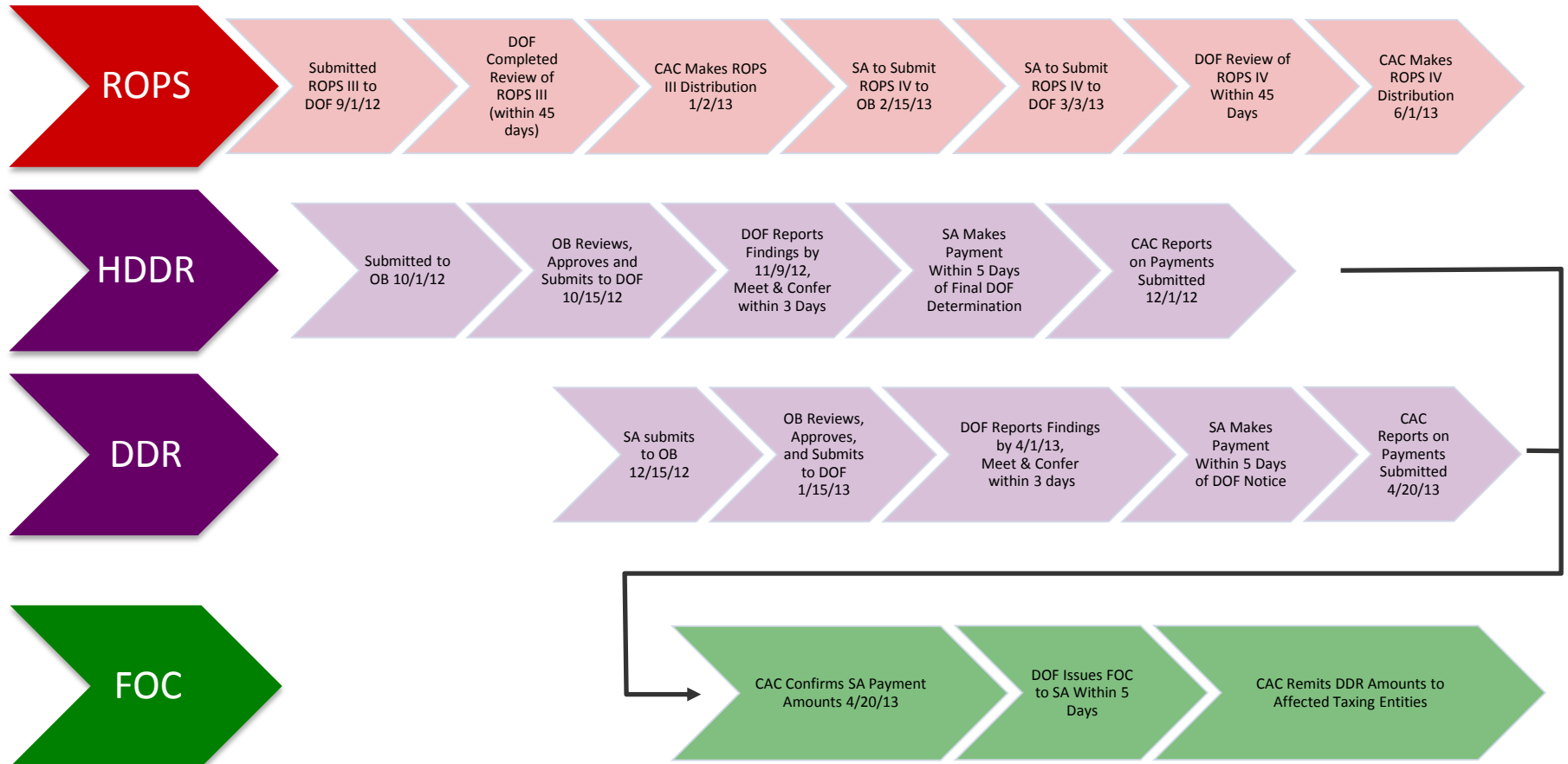
[§34179(i)]

OVERVIEW: Key Upcoming Process Steps

Q4 2012

Q1 2013

Q2 2013



SLIDE #4

Future ROPS Approval Process

- Plan on having ROPS approval process complete in early October and early March each year
 - Oversight board-approved ROPS is due 90 days before the date of property tax distribution [§34177(m)]
 - Property tax is distributed on January 2nd and June 1st of each year [§34183(a)(2)]

Due Diligence Review Process

Introduction

- Non-Housing Due Diligence Review (DDR) is similar to the Housing DDR Oversight Boards received on Oct. 15th
- The DDR reports the outcome of 11 agreed-upon procedures

Due Diligence Review Process

Introduction

- For the state, the DDR gives an accounting of unobligated balances available for distribution to taxing entities
- For the Successor Agency, completion of the DDR is the first step to obtaining a finding of completion from the Department of Finance

Due Diligence Review Process

Introduction

- For Oversight Board members, the review will give a snapshot of the Successor Agency's finances
- The review may also include some information that will be helpful when considering property disposition

Due Diligence Review Process

Oversight Board Role & Timing

- The Oversight Board must approve the findings in the DDR [§34179.6]
- The Successor Agency must submit the non-housing DDR to the Oversight Board, County Auditor-Controller, the Department of Finance, and the State Controller's Office by Dec. 15, 2012 [§34179.6(a)]
- The Oversight Board must convene a public comment session at least 5 business days before the Board considers approval of the DDR [§34179.6]

Due Diligence Review Process

Oversight Board Role & Timing

- An Oversight Board-approved DDR must be submitted to the DOF and the County Auditor-Controller by Jan. 15, 2013 [§34179.6]

Oversight Board Role & Timing

- The Oversight Board may adjust amounts in the DDR to reflect any new information or analysis [§34179.6(c)]
- The Oversight Board may request “any materials it deems necessary to assist in its review and approval of the determination” [§34179.6(c)]
- The Oversight Board must consider any opinions offered by the Auditor-Controller [§34179.6(b)]

Due Diligence Review Process

Oversight Board Review

- Focus on 4 areas:
 1. Ensure that asset transfers were proper
 2. Scrutinize restricted funds to ensure that retained funds are necessary and sufficient to meet legal requirements
 3. Review the valuation of property and assets
 4. Confirm amounts retained by the Successor Agency to pay enforceable obligations

Due Diligence Review Process

Asset Transfers

- The DDR is meant to capture any improper transfers that occurred between Jan. 1, 2011 and Jun. 30, 2012
- Transfers will be listed under procedures 1, 2, and 3 [§34179.5(b)]
- Review the State Controller's Office letter(s) if attached
- If not, review list of transfers prepared by the Successor Agency

Due Diligence Review Process

Asset Transfers

- The Successor Agency should prepare a list of all transfers and provide justification (i.e., either an enforceable obligation or legal requirement) for each transfer
- The DDR should note the absence of supporting documentation detailing the enforceable obligation or legal requirement associated with the transfer

Due Diligence Review Process

Asset Transfers

- Oversight Board members should focus on the following:
- If SCO letter is attached, ensure that disallowed transfers have been reversed and appear as a Successor Agency asset
- If no SCO letter is attached, ensure that supporting documentation details the enforceable obligation or legal requirement that the transfer is tied to
- For transferred assets, ensure that the Successor Agency's assumptions and methodology behind valuations are reasonable

Due Diligence Review Process

Restricted Funds & Balances

- The DDR should document any amounts that are legally restricted and not available for distribution to taxing entities
- Amounts should be listed under Procedure 6
[§34179.5(b)]
- These funds may include:
 - Unspent bond proceeds
 - Grant proceeds & program income that are restricted by third parties
 - Funds provided by other government entities that place conditions on their use

Due Diligence Review Process

Restricted Funds & Balances

- The Successor Agency should calculate the balances in these accounts and provide legal documentation for any required fund restrictions
- Schedules prepared by the Successor Agency should be attached to the DDR as an exhibit

Restricted Funds & Balances

- Oversight Board members should focus on the following:
- Request that any supporting documentation provided to the accountant be made available for Oversight Board review
- Verify supporting documentation for any required fund restrictions
- Ensure that amounts held are sufficient to meet legal requirements

Due Diligence Review Process

Property & Asset Valuations

- The DDR should include a list of assets that are not liquid and/or not available for distribution
- Assets should be listed under Procedure 7 [§34179.5(c)(5)(C)]
- These may include physical assets, land, records, equipment, long-term receivables, etc.
- Physical assets should be valued at purchase cost or at recent market value, as estimated by the Successor Agency

Due Diligence Review Process

Property & Asset Valuations

- Oversight Board members should focus on the following:
- Any estimated values should be supported by documentation or an explanation of the methodology
- If documentation or an explanation of the methodology is lacking, the Oversight Board members should request additional information from the Successor Agency
- The values highlighted in the DDR will provide information that will be useful for the Oversight Board when it is reviewing asset disposition

Due Diligence Review Process

Funds to Pay Enforceable Obligations

- If any balances are dedicated to funding enforceable obligations, the Successor Agency must list these amounts and provide a schedule to the accountant
- These balances should be listed under Procedure 8 [§34179.5(c)(5)(D)]
- The schedule should identify the following:
 - The amount of funds that must be dedicated or restricted
 - The nature of the dedication or restriction
 - The specific enforceable obligation that requires the dedication or restriction

Due Diligence Review Process

Funds to Pay Enforceable Obligations

- Current fund balances can be retained if previously dedicated funds and future revenues cannot satisfy enforceable obligations
- To retain such balances, the Agency must identify the amount of current balances to be held and provide a schedule of approved enforceable obligations

Due Diligence Review Process

Funds to Pay Enforceable Obligations

- The Successor Agency should also provide a projection of annual spending requirements and annual revenues available to fund those obligations
- If the Successor Agency predicts a shortfall, it must document its assumptions related to revenue projections and spending requirements

Due Diligence Review Process

Funds to Pay Enforceable Obligations

- Oversight Board members should focus on the following:
- Before the DDR is submitted, Oversight Board members should ask the Successor Agency if it will need to retain funds to pay enforceable obligations
- The Oversight Board should review the annual payment schedules and the underlying assumptions (e.g., assessed valuations, interest rates, etc.) that the Successor Agency used to create its revenue and expenditure projections

Due Diligence Review Process

Funds to Pay Enforceable Obligations

- Oversight Board members should focus on the following (cont.):
- The Oversight Board should ensure that the Successor Agency has accounted for all available resources, with a focus on revenues generated by assets, including lease payments
- The Oversight Board should ensure that all retained funds are used solely to fund DOF-approved enforceable obligations

Due Diligence Review Process

Key Takeaways

- The DDR should give the Oversight Board an opportunity to help ensure the following:
 - Asset transfers were proper
 - Inappropriately transferred assets have been returned
 - Legally restricted balances are retained
 - Property and asset values are appropriate
 - Any retained funds are necessary and adequate to fund enforceable obligations
- Ask for supporting documentation when necessary

What is a Finding of Completion?

- The Finding of Completion (FOC) is issued by the DOF after the Successor Agency has paid the amounts determined to be available for allocation to taxing entities
 - Amounts owed in FY 2011-12 [§34183.5]
 - Amounts determined through DDRs [§34179.6]
- FOC issued within 5 business days of County Auditor Controller confirmation that amounts have been paid [§34179.7]

Importance of Finding of Completion

- Issuance of Finding of Completion allows successor agencies to:
 - Transfer former RDA real property to Community Redevelopment Property Trust Fund (CRPTF) [§34191.4(a)]
 - Reinstate loan agreements between former RDA and City, provided OB makes finding [§34191.4(b)]
 - Spend bond proceeds issued on or before Dec. 31, 2010 [§34191.4(c)]
- Successor Agency must prepare a Long Range Property Management Plan (LRPMP) [§34191.5(b)]

Importance of Finding of Completion

- Property disposition provisions are suspended until Long Range Management Plan (LRPMP) is approved by DOF
 - Except for provisions on governmental use property transfers [§34191.3]
- Once approved, LRPMP governs property disposition
 - Supersedes other statutory provisions [§34191.3]

Loan Agreements

- Agreements entered into between former RDA and sponsoring entity are deemed enforceable obligations upon:
 - Oversight board approval that loan is enforceable obligation
 - Oversight board must make finding that the loan was for legitimate redevelopment purposes [§34191.4(b)(1)]

Loan Agreements

- **Requirements for Loan Repayment** [§34191.4(b)(2)]
 - Paid according to defined schedule
 - Not to begin before FY 2013-14
 - Limit placed on annual repayment amount
 - Interest on loan limited to LAIF interest rate
 - Amounts borrowed from LMIHF take priority over these loan repayments

Loan Agreements

- **Housing Repayment Priorities**
[§34191.4(b)(2)]
- Sponsoring entity must first use repayment amounts to retire any outstanding amounts borrowed from the Low and Moderate Income Housing Fund (LMIHF) to make SERAF payments
- Repayment of loans or deferrals owed to LMIHF
- 20% of loan repayment must be transferred to Low Moderate Income Housing Asset Fund (LMIHAF)
 - Begins after SERAF loans have been repaid

Use of Bond Proceeds

- Authorizes expenditure of proceeds derived from bonds issued on or before Dec. 31, 2010
- Proceeds must be spent consistent with original bond covenants
- Excess bond proceeds obligations must be separately listed on ROPS
- If remaining proceeds cannot be spent, must be used to defease bonds or purchase bonds on open market for cancellation [§34191.4(c)]

Overview of Property Types

- Housing property assets
 - Transferred to Housing Successor Agency [§34176]
- Governmental use properties
 - Special procedures apply [§34181(a)]
- Non-governmental use properties
 - Two paths for property use or disposition depending on whether Successor Agency has received Finding of Completion and DOF approval of Long Range Property Management Plan (LRPMP) [§34191.3]
- Mixed use properties [§34176(f)]

Two Disposition Paths

- Without Finding of Completion (or Approval of LRPMP by January 1, 2015) [§34191.1 and §34191.3]
 - Non-government use properties must be disposed of expeditiously and in manner to maximize value
 - Provisions in §34177(e) and §34181(a) apply
- With Finding of Completion [§34191.3]
 - Disposition requirements are suspended until DOF has approved LRPMP
 - Once LRPMP approved, supersedes other provisions

Governmental Use Properties

- Successor Agencies may transfer and sell to appropriate public jurisdiction properties meeting this legal definition:

“...those assets that were constructed and used for a governmental purpose, such as roads, school buildings, parks, police and fire stations, libraries, and local agency administrative buildings...”
[§34181(a)]

Governmental Use Property Transfer

- OB directs transfer of ownership to appropriate public jurisdiction [§34181(a)]
 - Transfer must be pursuant to any existing agreement
 - Any compensation governed by existing agreement
 - Disposal done expeditiously and to maximize value
- OB approves after at least 10-day public notice [§34181(f)]
- OB action effective within 5 business days, unless DOF requests review [§34179(h)]
 - DOF may extend review period by 60 days [§34181(f)]

Governmental Use Property Transfer

- Until LRPMP has been approved by the OB and DOF, no property can transfer to the successor agency, city, county, or city and county

[§34191.5(c)(2)(C)]

- However AB 1484 allows a city, county, or city and county to retain property for future redevelopment upon entering a compensation agreement with the other affected taxing entities [§34180(f)]

Mixed Use Properties

- Definition of mixed use properties:

“...a development that includes both low- and moderate-income housing that meets the definition of a housing asset . . . and other types of property use, including, but not limited to, commercial use, governmental use, open space, and parks...”

[§34176(f)]

Mixed Use Properties

- Special procedure for mixed use properties:

“...the oversight board shall consider the overall value to the community as well as the benefit to taxing entities of keeping the entire development intact or dividing the title and control over the property between the housing successor and the successor agency or other public or private agencies.”
- Disposition may be accomplished by revenue sharing arrangement approved by Oversight Board [§34176(f)]

Long Range Property Management Plan

What is the LRPMP?

- The LRPMP “addresses the disposition and use of the real properties of the former redevelopment agency” [§34191.5(b)]
- Upon approval by DOF, LRPMP governs the disposition and use of real property assets of former RDA [§34191.3]
 - Supersedes all other related statutory provisions

Long Range Property Management Plan

LRPMP Approval Process

- LRPMP must be submitted to oversight board and DOF for approval no later than six months after issuance of a Finding of Completion

[§34191.5(b)]

- Oversight Board action effective after 5 business days after notification to DOF of OB action, unless DOF requests review [§34179(h)]
- DOF has 40 days for review [§34179(h)]

Long Range Property Management Plan

Property Transfer to the Community Redevelopment Property Trust Fund

- Upon LRPMP approval, all real property identified in non-housing DDR is transferred to the Community Redevelopment Property Trust Fund
- Property subject to existing Enforceable Obligation does not transfer [§34191.4(a)]

Long Range Property Management Plan

Elements of the LRPMP

- Inventory of all properties indicating proposed use or sale of each property [§34191.5(c)(1)]
 - Date acquired and intended purpose
 - Value at acquisition and estimated current value
 - Parcel data (address, lot size, current zoning)
 - Estimate of revenue generated by property
 - History of environmental contamination
 - Description of transit-oriented development potential and advancement of planning objectives
 - Brief history of previous development proposal/activity

Other Helpful Information

- Other information that may be useful to Oversight Board in its consideration of LRPMP:
 - General Plan designation and zoning
 - Number of buildings on site and their sq. ft.
 - How title is currently held (Former RDA, City, other)
 - Aerial location map including surrounding development
 - Vacancy status
 - Existence of any easements
 - Restrictions on resale (ex. purchased with tax-exempt bond proceeds)
 - RDA investments in property to date
 - Photograph(s) of property

Long Range Property Management Plan

Elements of the LRPMP

- The use or disposition of all of the properties in the Community Redevelopment Property Trust Fund (CRPTF)
- Permissible uses include:
 - Retain property for governmental use [§34181(a)]
 - Retain property for future development
 - Sale of the property
 - Use of the property to fulfill existing obligation [§34191.5(c)(2)]

Long Range Property Management Plan

Elements of the LRPMP

- Must separately identify and list properties:
 - Dedicated to governmental use purposes
 - Retained for purposes of fulfilling an enforceable obligation [§34191.5(c)(2)]

Long Range Property Management Plan

Property Related to RDA Project

- If the LRPMP directs the use or liquidation of a property for a project identified in an approved redevelopment plan, the property transfers to the sponsoring entity [HSC §34191.5(c)(2)(A)]
 - Such a transfer does not require a distribution to affected taxing entities

Long Range Property Management Plan

Property Sale

- If the LRPMP directs the sale of the property or the use of revenues generated from the property (e.g., lease or parking revenues) for any purpose other than to fulfill an enforceable obligation or for a project identified in an approved redevelopment plan, the proceeds from the sale shall be distributed as property tax to the affected taxing entities.

[HSC §34191.5(c)(2)(B)]

Property Used to Fulfill an Enforceable Obligation

- Property can be used to fulfill an enforceable obligation
- Questions to ask:
 - Is asset currently encumbered by EO (i.e., are revenues pledged to bond debt service)?
 - Has the EO been questioned or rejected by DOF?
 - When will EO end or be satisfied in full? [§34191.5(c)(2)]

Key Oversight Board Role in Property Disposition

- Oversight Board:
 - Directs the transfer of the ownership of governmental use properties
 - Reviews and approves the LRPMP
 - Approves the sale of properties to be sold into the private market according to LRPMP

Key Oversight Board Role in Property Disposition

- Oversight Board ensures the following:
 - Governmental use properties meet definition and are transferred properly
 - Governmental use properties are not improperly transferred prior to LRPMP approval
 - LRPMP is prepared in accordance with law
 - Proper consideration of mixed use properties

Ask for Supporting Information on Properties

- For any properties that you think may require additional Oversight Board review or data, ask the Successor Agency to provide the Board with the supporting documentation.

Available Resources

Department of Finance Website

<http://www.dof.ca.gov/redevelopment/>

The County Auditor-Controller

<http://auditor.lacounty.gov/>

County Counsel

Successor Agency Staff Analyses/Reports

County Redevelopment Dissolution Website

<http://redevelopmentdissolution.lacounty.gov/>

Chief Executive Office

email: oversightboard@ceo.lacounty.gov

Questions & Answers

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